



Reprinted
April 9, 2003

ENGROSSED HOUSE BILL No. 1353

DIGEST OF HB 1353 (Updated April 8, 2003 3:01 PM - DI 87)

Citations Affected: IC 36-2; IC 36-4; IC 36-5.

Synopsis: Effective date of fees. Delays the effective date of building permit fees for new development until 90 days after the publication of the ordinance that increases the fees.

Effective: July 1, 2003.

Moses, Budak

(SENATE SPONSORS — LONG, LANANE, ZAKAS)

January 14, 2003, read first time and referred to Committee on Local Government.
February 10, 2003, amended, reported — Do Pass.
February 17, 2003, read second time, ordered engrossed. Engrossed.
February 18, 2003, read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 24, 2003, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

April 3, 2003, amended, reported favorably — Do Pass.

April 8, 2003, read second time, amended, ordered engrossed.

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EH 1353—LS 7186/DI 108+



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April 9, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1353

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-2-4-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) An ordinance, order, or
3 resolution is considered adopted when it is signed by the presiding
4 officer. If required, an adopted ordinance, order, or resolution must be
5 promulgated or published according to statute before it takes effect.
6 (b) An ordinance prescribing a penalty or forfeiture for a violation
7 must, before it takes effect, be published once each week for two (2)
8 consecutive weeks, according to IC 5-3-1. However, if such an
9 ordinance is adopted by the legislative body of a county subject to
10 IC 36-2-3.5 and there is an urgent necessity requiring its immediate
11 effectiveness, it need not be published if:
12 (1) the county executive proclaims the urgent necessity; and
13 (2) copies of the ordinance are posted in three (3) public places in
14 each of the districts of the county before it takes effect.
15 (c) In addition to the other requirements of this section, an
16 ordinance or resolution passed by the legislative body of a county
17 subject to IC 36-2-3.5 is considered adopted only if it is:

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- (1) approved by signature of a majority of the county executive;
- (2) neither approved nor vetoed by a majority of the executive, within ten (10) days after passage by the legislative body; or
- (3) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

- (1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or
- (2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

SECTION 2. IC 36-4-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is:

- (1) signed by the presiding officer; and
- (2) either approved by the city executive or passed over his veto by the legislative body, under section 16 of this chapter.

If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

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- (1) it is published under subsection (c); or
- (2) there is an urgent necessity requiring its immediate effectiveness, the city executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in each of the districts from which members are elected to the legislative body.

(c) **Except as provided in subsection (e)**, if a city publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

- (1) of the ordinances in the book or pamphlet;
- (2) of the date of adoption of the ordinances; and
- (3) that the ordinances have been properly signed, attested, recorded, and approved.

(d) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(e) An ordinance increasing a building permit fee on new development must:

(1) be published:

- (A) one (1) time in accordance with IC 5-3-1; and**
- (B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and**

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

SECTION 3. IC 36-5-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is signed by the executive. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under IC 36-1-5; or
- (2) it declares an emergency requiring its immediate effectiveness and is posted in:

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- 1 (A) one (1) public place in each district in the town; or
 2 (B) a number of public places in the town equal to the number
 3 of town legislative body members, if the town has abolished
 4 legislative body districts under section 4.1 of this chapter.
 5 (c) This section does not apply to a zoning ordinance or amendment
 6 to a zoning ordinance, or a resolution approving a comprehensive plan,
 7 that is adopted under IC 36-7.
 8 **(d) An ordinance increasing a building permit fee on new**
 9 **development must:**
 10 **(1) be published:**
 11 **(A) one (1) time in accordance with IC 5-3-1; and**
 12 **(B) not later than thirty (30) days after the ordinance is**
 13 **adopted by the legislative body in accordance with**
 14 **IC 5-3-1; and**
 15 **(2) delay the implementation of the fee increase for ninety (90)**
 16 **days after the date the ordinance is published under**
 17 **subdivision (1).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1353, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 21, delete "or an impact".

Page 2, line 22, delete "fee".

Page 3, line 17, delete "or an impact".

Page 3, line 18, delete "fee".

Page 4, line 1, delete "or an impact".

Page 4, line 2, delete "fee".

Page 4, delete lines 8 through 42.

Delete page 5.

and when so amended that said bill do pass.

(Reference is to HB 1353 as introduced.)

MOSES, Chair

Committee Vote: yeas 14, nays 0.

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SENATE MOTION

Mr. President: I move that Senator Zakas be added as cosponsor of Engrossed House Bill 1353.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred House Bill No. 1353, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 4, delete "If" and insert "**Except as provided in subsection (e),** if".

Page 3, line 21, delete "fee the" and insert "**the fee**".

and when so amended that said bill do pass.

(Reference is to HB 1353 as printed February 11, 2003.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 5, Nays 2.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1353 be amended to read as follows:

Page 2, delete lines 23 through 27, begin a new line block indented and insert:

"(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1)."

Page 3, delete lines 20 through 24, begin a new line block indented and insert:

"(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1)."

Page 4, delete lines 4 through 8, begin a new line block indented and insert:

"(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1)."

(Reference is to EHB 1353 as printed April 4, 2003.)

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